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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jonathan M Arther,

10 Plaintiff,

11 v.

12 Corizon Health Incorporated, et al.,

13 Defendants.
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No. CV-20-00189-PHX-JAT (JFM)

ORDER

15 Plaintiff originally filed suit in this case against 28 Defendants. Some Defendants
16 were effectively dismissed when they were not re-named in the amended complaints. (*See*
17 Docs. 17, 19; *see also* Doc. 66 as to certain Doe Defendants). The Court then dismissed
18 various Defendants in various Orders, including on May 20, 2021, June 25, 2021, July 15,
19 2021, September 13, 2021, and September 5, 2023. Following the September 5, 2023
20 Order, the only remaining Defendant was Corizon Health Incorporated (“Corizon”).

21 As noted in the September 5, 2023 Order, Corizon declared bankruptcy on February
22 14, 2023. Thus, in the September 5, 2023 Order, the Court ruled on all then-remaining
23 Defendants’ motions for summary judgment¹ except Corizon. The Court also included,

24 [Corizon’s] Motion is denied without prejudice to refiling ... if the
25 stay in the bankruptcy proceeding is lifted. Plaintiff shall either dismiss this
case as to Corizon (without prejudice to pursuing any claims in bankruptcy

26 ¹ Although certain non-Corizon Defendants lodged a proposed form of judgment (Doc.
27 171), the Court has not entered judgment as to any Defendant because Federal Rule of Civil
28 Procedure 54(b) limits the circumstances in which the Court should enter a partial
judgment. The Court did not find those circumstances to be present in this case. *See, e.g.,*
Gomez v. EOS CCA, CV 18-2740-PHX-JAT (D. Ariz. August 12, 2020) (discussing at
length the various tests the Court should apply before entering a partial judgment).

1 court) or move the bankruptcy court to lift the automatic stay to allow this
2 case to go forward in this forum. Plaintiff's claims against Defendant
3 Corizon will be dismissed, without prejudice, without further notice on
4 October 29, 2023, unless the Court is advised that the bankruptcy stay has
been lifted, or a request for a lifting of the bankruptcy stay has not been ruled
upon by the bankruptcy court. If the stay is lifted, Corizon must refile its
motion for summary judgment within 15 days of the stay being lifted.

5 (Doc. 168 at 27).

6 Prior to the October 29, 2023 dismissal deadline, Plaintiff, through counsel, moved
7 to extend the deadline. The Court extended the deadline to December 4, 2023. (Doc. 170).
8 December 4, 2023 has now passed, and Plaintiff has not responded to the Order at Doc.
9 168. As a result, Corizon will be dismissed, without prejudice.

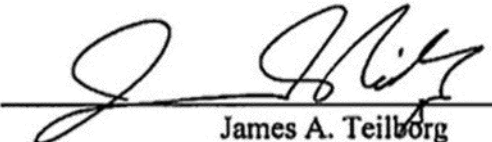
10 Based on the foregoing,

11 **IT IS ORDERED** dismissing Defendant Corizon without prejudice.

12 **IT IS FURTHER ORDERED** that, because Corizon was the last remaining
13 Defendant, the Clerk of the Court shall enter judgment against Plaintiff by:

- 14 1) dismissing Defendants Corizon Health Incorporated, Arizona Department of
15 Corrections Officers John (or Jane) Doe 1, 2, 4, 6, 8 and 10 (Doc. 68), Ryan
16 (Doc. 78), John (Or Jane) Doe Ferman, John (Or Jane) Doe Stevens, and Arizona
17 Department of Corrections IFF Liaison John (Or Jane) Doe 9 (Doc 96), without
18 prejudice;
- 19 2) dismissing Defendant Shinn (Doc. 59), with prejudice; and
- 20 3) granting summary judgment to Defendants Eye Doctors of Arizona PLLC,
21 Heller, State of Arizona, Johnson, Brinton, Kabongo, and Walton-Sparks (Doc.
22 168), with prejudice.

23 Dated this 8th day of December, 2023.

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27 James A. Teilborg
28 Senior United States District Judge